

House File 2228 - Introduced

HOUSE FILE 2228

BY RANTS

A BILL FOR

1 An Act providing for the establishment of a home ownership
2 savings plan trust, providing an exemption from state
3 individual income tax and state inheritance tax, and
4 including a retroactive applicability date provision.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 12G.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Acquisition indebtedness*" has the same meaning as
5 defined in section 163 of the Internal Revenue Code.

6 2. "*Administrative fund*" means the administrative fund
7 established under section 12G.4.

8 3. "*Beneficiary*" means an individual designated in a
9 participation agreement as the intended recipient of advance
10 payments of home ownership acquisition costs made on behalf of
11 the individual to the trust.

12 4. "*Benefits*" means the payment by the trust of home
13 ownership acquisition costs on behalf of a beneficiary for the
14 purchase of the beneficiary's first home.

15 5. "*First home*" means the first real estate purchased by an
16 individual that meets the requirements of a principal residence
17 as that term is defined in section 121 of the Internal Revenue
18 Code.

19 6. "*Home acquisition costs*" means the certified costs
20 incurred by an individual in the purchase of a first home
21 including the amount of down payment required to secure a
22 mortgage or other instrument of indebtedness, the amount of
23 acquisition indebtedness, and the transaction costs incurred in
24 the purchase of the first home.

25 7. "*Internal Revenue Code*" means the same as defined in
26 section 422.3.

27 8. "*Participant*" means an individual, or an individual's
28 legal representative, who has entered into a participation
29 agreement under this chapter for the advance payment of home
30 acquisition costs on behalf of a beneficiary.

31 9. "*Participation agreement*" means an agreement between
32 a participant and the trust entered into pursuant to this
33 chapter.

34 10. "*Program fund*" means the program fund established under
35 section 12G.4.

1 11. *“Refund penalty”* means the amount assessed by the
2 treasurer of state for cancellation of a participation
3 agreement.

4 12. *“Trust”* means the home ownership savings plan trust
5 created under section 12G.2.

6 Sec. 2. NEW SECTION. **12G.2 Home ownership savings plan**
7 **trust created.**

8 1. A home ownership savings plan trust is created within the
9 office of the treasurer of state.

10 2. The treasurer of state is the trustee of the trust, and
11 shall have all powers necessary to carry out and effectuate the
12 purposes, objectives, and provisions of this chapter pertaining
13 to the trust. Such powers include the power to do all of the
14 following:

15 a. Make and enter into contracts or agreements with various
16 entities as necessary for the administration of the trust or
17 the implementation of this chapter.

18 b. Carry out the duties and obligations of the trust
19 pursuant to this chapter.

20 c. Accept grants, gifts, legislative appropriations, and
21 other moneys from the state, any unit of federal, state, or
22 local government, or any other person, firm, partnership, or
23 corporation which the treasurer of state shall deposit into the
24 administrative fund or the program fund.

25 d. Carry out studies and projections in order to advise
26 participants regarding present and estimated home acquisition
27 costs and levels of financial participation in the trust
28 required in order to enable participants to achieve their
29 funding objectives.

30 e. Participate in any federal, state, or local governmental
31 program for the benefit of the trust.

32 f. Procure insurance against any loss in connection with the
33 property, assets, or activities of the trust.

34 g. Enter into participation agreements with participants.

35 h. Make payments to participants or beneficiaries, pursuant

1 to participation agreements on behalf of beneficiaries.

2 *i.* Make refunds to participants upon the termination
3 of participation agreements, and partial nonqualified
4 distributions to participants, pursuant to the provisions,
5 limitations, and restrictions set forth in this chapter.

6 *j.* Invest moneys from the program fund in any investments
7 which are determined by the treasurer of state to be
8 appropriate.

9 *k.* Engage investment advisors, if necessary, to assist in
10 the investment of trust assets.

11 *l.* Contract for goods and services and engage personnel
12 as necessary, including consultants, actuaries, managers,
13 legal counsel, and auditors for the purpose of rendering
14 professional, managerial, and technical assistance and advice
15 to the treasurer of state regarding trust administration and
16 operation.

17 *m.* Establish, impose, and collect administrative fees and
18 charges in connection with transactions of the trust, and
19 provide for reasonable service charges, including penalties for
20 cancellations and late payments with respect to participation
21 agreements.

22 *n.* Administer the funds of the trust.

23 *o.* Adopt rules pursuant to chapter 17A for the
24 administration of the trust and for the implementation of the
25 powers described in this subsection.

26 **Sec. 3. NEW SECTION. 12G.3 Participation agreements.**

27 1. The trust may enter into participation agreements
28 with participants on behalf of beneficiaries pursuant to the
29 provisions of this section.

30 2. *a.* Each participation agreement may require a
31 participant to agree to invest a specific amount of money in
32 the trust for a specific period of time for the benefit of a
33 specific beneficiary.

34 *b.* A participant shall not be required to make an annual
35 contribution on behalf of a beneficiary.

1 *c.* (1) Contributions made to the trust on behalf of a
2 beneficiary may be deducted from the computation of Iowa net
3 income pursuant to section 422.7, subsection 54.

4 (2) The maximum amount of contributions to the trust that
5 may be deducted shall not exceed two thousand dollars per
6 beneficiary per year.

7 (3) The director of the department of revenue shall adjust
8 the maximum contribution amount annually to reflect increases
9 in the consumer price index.

10 *d.* Participation agreements may be amended to provide for
11 adjusted levels of payments based upon changed circumstances or
12 changes in home acquisition plans.

13 3. The execution of a participation agreement by the trust
14 shall not guarantee in any way that home acquisition costs will
15 be equal to any projections and estimates provided by the trust
16 or that the beneficiary named in any participation agreement
17 will qualify for the financing necessary to purchase a first
18 home.

19 4. *a.* A participant may request the treasurer of state
20 to change the beneficiary named in a participation agreement.
21 However, a beneficiary may not be changed unless the new
22 beneficiary is eligible to participate. The treasurer of state
23 shall adopt rules for changing beneficiaries in compliance with
24 the provisions of this chapter.

25 *b.* Participation agreements may be freely amended in order
26 to enable participants to increase or decrease the level of
27 participation, change the designation of beneficiaries, and
28 carry out similar matters as authorized by rules adopted by the
29 treasurer of state.

30 5. *a.* A participation agreement shall provide for the
31 cancellation of the agreement. Such cancellation shall only
32 be effective upon the fulfillment of the terms and conditions
33 of the agreement, and upon the payment of applicable refund
34 penalties, fees, and costs as set forth and contained in rules
35 adopted by the treasurer of state.

1 *b.* A participant may cancel a participation agreement at
2 will. Upon cancellation of a participation agreement and
3 after the payment of applicable refund penalties, fees, and
4 costs, a participant shall be entitled to the return of the
5 participant's account balance.

6 Sec. 4. NEW SECTION. **12G.4 Program and administrative funds**
7 **— investment and payments.**

8 1. The treasurer of state shall segregate moneys received by
9 the trust into a program fund and an administrative fund.

10 2. All moneys paid by participants in connection with
11 participation agreements shall be deposited as received into
12 separate accounts within the program fund.

13 3. The treasurer shall only accept contributions to the
14 trust made in the form of cash.

15 4. A participant or beneficiary shall not provide
16 investment direction regarding program contributions or
17 earnings held by the trust.

18 5. Moneys accrued by participants in the program fund of the
19 trust may be used for the payment of home acquisition costs.

20 6. Payments from the trust may be made to an institution, a
21 participant, or a beneficiary.

22 Sec. 5. NEW SECTION. **12G.5 Repayment — treatment of income**
23 **— ownership and transfer of moneys.**

24 1. A participant retains ownership of all payments made
25 under a participation agreement up to the date of utilization
26 for payment of home acquisition costs for the beneficiary.

27 2. All income derived from the investment of the payments
28 made by the participant is considered to be held in trust for
29 the benefit of the beneficiary.

30 3. If the program is terminated prior to payment of home
31 acquisition costs for the beneficiary, the participant is
32 entitled to a refund of the participant's account balance.

33 4. An institution receiving payments toward home
34 acquisition costs from the fund shall obtain ownership of the
35 payments at the time each payment is made to the institution.

1 5. Any amounts which may be paid to any person pursuant to
2 the home ownership savings plan trust which are not listed in
3 this section are owned by the trust.

4 6. A participant may transfer ownership rights to another
5 eligible individual, including a gift of the ownership rights
6 to a minor beneficiary. The transfer shall be made and the
7 property distributed in accordance with rules adopted by the
8 treasurer of state or with the terms of the participation
9 agreement.

10 7. A participant's interest in the trust shall not be used
11 as security for a loan.

12 Sec. 6. NEW SECTION. **12G.6 Annual audited financial report.**

13 1. The treasurer of state shall submit an annual audited
14 financial report, prepared in accordance with generally
15 accepted accounting principles, on the operations of the trust
16 by November 1 to the governor and the general assembly.

17 2. The annual audit shall be made either by the auditor
18 of state or by an independent certified public accountant
19 designated by the auditor of state and shall include direct and
20 indirect costs attributable to the use of outside consultants,
21 independent contractors, and any other persons who are not
22 state employees.

23 3. The annual audit shall be supplemented by all of the
24 following information prepared by the treasurer of state:

25 a. Any related studies or evaluations prepared in the
26 preceding year.

27 b. A summary of the benefits provided by the trust including
28 the number of participants and beneficiaries in the trust.

29 c. Any other information which is relevant in order to make
30 a full, fair, and effective disclosure of the operations of the
31 trust.

32 Sec. 7. NEW SECTION. **12G.7 Income tax treatment.**

33 1. State income tax treatment of the home ownership savings
34 plan trust shall be as provided in section 422.7, subsections
35 54 and 55.

1 2. State inheritance tax treatment of interests in the home
2 ownership savings plan trust shall be as provided in section
3 450.4, subsection 11.

4 Sec. 8. NEW SECTION. 12G.8 Property rights to assets in
5 trust.

6 1. The assets of the trust shall at all times be preserved,
7 invested, and expended solely and only for the purposes of
8 the trust and shall be held in trust for the participants and
9 beneficiaries.

10 2. No property rights in the trust shall exist in favor of
11 the state.

12 3. The assets of the trust shall not be transferred or used
13 by the state for any purposes other than the purposes of the
14 trust.

15 Sec. 9. NEW SECTION. 12G.9 Construction.

16 This chapter shall be construed liberally in order to
17 effectuate its purpose.

18 Sec. 10. Section 422.7, Code Supplement 2009, is amended by
19 adding the following new subsections:

20 NEW SUBSECTION. 54. a. Subtract the amount of a
21 contribution to the home ownership savings plan trust under a
22 participation agreement with the treasurer of state, not to
23 exceed the maximum amount that may be deducted for Iowa income
24 tax purposes under section 12G.3, subsection 2, paragraph "c".

25 b. Add the amount resulting from the cancellation of
26 a participation agreement refunded to the taxpayer as a
27 participant in the home ownership savings plan trust to the
28 extent previously deducted as a contribution to the trust under
29 paragraph "a".

30 c. Add the amount resulting from a withdrawal made by
31 a taxpayer from the home ownership savings plan trust for
32 purposes other than the payment of home acquisition costs,
33 to the extent such amount was previously deducted as a
34 contribution to the trust under paragraph "a". For purposes of
35 this paragraph, "home acquisition costs" has the same meaning as

1 defined in section 12G.1.

2 NEW SUBSECTION. 55. Subtract, to the extent included,
3 income from interest and earnings received from the home
4 ownership savings plan trust created in chapter 12G.

5 Sec. 11. Section 450.4, Code 2009, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 11. On the value of any interest in the
8 home ownership savings plan trust, as described in chapter
9 12G, to the same extent to which the value of the interest is
10 excluded from the decedent's gross estate for federal estate
11 tax purposes.

12 Sec. 12. RETROACTIVE APPLICABILITY. The section of this Act
13 amending Code section 422.7 applies retroactively to January 1,
14 2010, for tax years beginning on or after that date.

15 EXPLANATION

16 This bill establishes a home ownership savings plan trust
17 modeled after the Iowa educational savings plan trust contained
18 in Code chapter 12D. The bill provides for the creation of
19 the home ownership savings plan trust in new Code chapter 12G
20 and authorizes the treasurer of state to administer the Code
21 chapter by way of several specified powers and duties.

22 The objective of the home ownership savings plan trust is
23 to provide a mechanism for making contributions on behalf of a
24 beneficiary into an account which will be invested and managed
25 by the treasurer of state, with the accumulated funds payable
26 to or on behalf of a beneficiary at a future date for purposes
27 of acquiring a first home.

28 The bill provides for entering into a participation
29 agreement requiring a participant to agree to invest a specific
30 amount of money in the trust for a specific period of time
31 for the benefit of a specific beneficiary. The bill limits
32 the maximum contribution that may be deducted for Iowa income
33 tax purposes to \$2,000 per beneficiary annually, adjusted to
34 reflect increases in the consumer price index.

35 The bill provides for amending participation agreements,

1 substituting beneficiaries, and cancellation of agreements,
2 and states that the execution of a participation agreement by
3 the trust does not guarantee that home ownership costs will be
4 equal to projections and estimates provided by the trust or
5 that the beneficiary named in any participation agreement will
6 qualify for any other financing necessary to purchase a first
7 home.

8 The bill provides for the segregation of moneys received
9 by the trust into a program fund and an administrative fund,
10 with all moneys paid by participants deposited into separate
11 accounts within the program fund.

12 The bill specifies that contributions to the trust can only
13 be made in cash, and that the contributions may be used for the
14 payment of home acquisition costs. Payments can be made to an
15 institution, the participant, or to the beneficiary.

16 The bill specifies circumstances under which ownership
17 rights can be transferred and provides that a participant
18 cannot utilize the participant's interest in the trust as
19 security for a loan.

20 The bill provides for an annual audited financial report to
21 be submitted by the treasurer of state to the governor and the
22 general assembly.

23 The bill allows income tax exemptions for contributions to
24 the trust and for interest and earnings from the trust and
25 specifies the amounts that may be deducted from net income for
26 purposes of computing Iowa individual income tax liability and
27 provides for inheritance tax exemptions in certain cases.

28 The income tax exemptions apply retroactively to January 1,
29 2010, for tax years beginning on or after that date.